MT LEGISLATIVE HISTORY

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Hearing Date(s) JAN 22 ✓C Hearing Date(s) MAR 5 ✓C

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Date Out JAN 22 ✓C ___ ___C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

BUSINESS & INDUSTRY COMMITTEE

__ Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 101	"AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE COMPANIES; ..."	2/6	HAZELBAKER	3/5	BE CONCURRED IN CONSENT CALENDAR	3/5
HB 622	" AN ACT TO PROHIBIT A TAVERN KEEPER OR EMPLOYEE FROM EXTENDING CREDIT TO TAVERN PATRONS ..."	2/7	BERTELSEN	2/10	DO NOT PASS	2/10
FROM THE HB 631	"AN ACT TO REMOVE THE STATE RETAIL LIQUOR BUSINESS;	2/7	BURNETT	2/13	DO NOT PASS	2/13
SB 62	"AN ACT AMENDING SECTION 50-60-605, MCA, TO AUTHORIZE TEMPORARY ELECTRICAL CONNECTIONS BY POWER SUPPLIERS WITHOUT INSPECTION."	2/7	LOWC	3/2/79	BE CONCURRED IN	3/2
SB 157	"AN ACT TO GENERALLY REVISE THE LAWS RELATING TO CORPORATIONS; REQUIRING A STREET AND NUMBER ADDRESS FOR THE REGISTERED OFFICE TO BE INCLUDED IN ARTICLES ...."	2/7	SMITH	2/28/79	BE CONCURRED IN	2/28
SB 81	"AN ACT TO PROVIDE FOR A 10 DAY RESCISSION PERIOD ON DISABILITY INSURANCE POLICIES ISSUED BY INSURANCE COMPANIES	2/8	DOVER	3/8	BE CONCURRED IN	3/8

SENATE BILL NO. 101

INTRODUCED BY [illegible]

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE COMPANIES; AND REPEALING SECTION 40-1723, R.M.C. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-201, MCA, is amended to read:

"33-1-201. Definitions -- insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States ~~of America~~, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one formed under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) "State", when used as to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States ~~of America~~.

(8) "Transact", with respect to insurance, includes any of the following:

(a) solicitation and inducement;

(b) preliminary negotiations;

(c) effectuation of a contract of insurance;

(d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(9) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

Section 2. Section 33-1-202, MCA, is amended to read:

"33-1-202. Definitions -- entities. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) "Commissioner" means the commissioner of insurance

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of the state of Montana ~~unless the context requires otherwise~~.

(2) "Department" means the department of insurance of the state of Montana ~~unless the context requires otherwise~~.

(3) "Person" includes an individual, insurer, company, association, organization, Lloyd's, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, ~~and~~ or any other legal entity."

Section 3. Section 33-1-211, MCA, is amended to read:

"33-1-211. Surety insurance. Surety insurance includes:

(1) fidelity insurance which is insurance guaranteeing the fidelity of persons holding positions of public or private trust;

(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship;

(3) insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or associations:

(a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry,

watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while ~~the same are~~ being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation; ~~also insurance~~

(b) against loss or damage to ~~such an~~ the insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein caused by burglary, robbery, theft, ~~vandalism,~~ or criminal mischief or any attempt thereat."

Section 4. Section 33-1-303, MCA, is amended to read:

"33-1-303. Deputies and assistants -- employment, compensation, and termination. (1) The commissioner shall appoint a chief deputy insurance commissioner who shall be in charge of the insurance department under the direction and control of the commissioner.

(2) The commissioner may appoint additional deputy insurance commissioners for ~~such~~ the purposes ~~as~~ that he ~~may designate~~ designates.

(3) The commissioner may employ a competent insurance actuary to perform actuarial duties, if any, of the department, to take charge of or assist in the examination of insurers, and to perform other duties assigned to him.

(4) The commissioner may appoint or employ ~~such~~ examiners to conduct or assist in examinations of insurers and others provided for under the code. ~~as may~~ Examiners

must be competent, because of experience or special education or training, to fulfill the responsibilities of an insurance examiner.

(5) The commissioner shall appoint and employ a field investigator whose primary duty it ~~shall be~~ is, as directed by the commissioner, to make investigations in this state of violations or claimed violations of this code.

(6) The commissioner may appoint a chief clerk for the insurance department and employ such other assistants and clerks as may be necessary to assist him properly to discharge the duties imposed upon him under this code.

(7) The commissioner may at any time terminate the appointment, designation, or employment of any such deputy, actuary, chief clerk, or other employee.

(8) The commissioner may from time to time contract for and procure, on a fee or part-time basis, or both, such actuarial, technical, or other professional services as he may require for the discharge of his duties.

(9) The compensation of ~~all---such---personnel---so appointed,---employed,---or---contracted---for--by--him~~ the commissioner's personal staff, as defined in Title 2, chapter 18, part 1, shall be as fixed by the commissioner but in the aggregate ~~shall~~ may not exceed current funds appropriated by the legislature to the insurance department or otherwise currently available for the purpose."

Section 5. Section 33-1-315, MCA, is amended to read:

"33-1-315. Witnesses -- production of records -- subpoena -- failure to respond -- perjury. (1) With respect to the subject of any examination, investigation, or hearing being conducted by him, the commissioner or his examiner, if general written authority ~~therefor~~ has been given the examiner by the commissioner, may subpoena witnesses and administer oaths or affirmations and examine any individual under oath and may require and compel the production of records, books, papers, contracts, and other documents by attachments, if necessary. If in connection with any examination of an insurer the commissioner desires to examine any officer, director, or manager thereof who is then outside this state, the commissioner ~~is authorized to~~ may conduct and enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States in which such officer, director, or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered.

(2) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a district court. Witness fees, mileage, and the actual expenses necessarily incurred in securing attendance of witnesses and their testimony shall be itemized and shall be paid by the person

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being examined if such person is found ~~to have been~~ in violation of the law as to the matter with respect to which such witness was subpoenaed or by the person, if other than the commissioner, at whose request the hearing is held.

(3) Subpoenas of witnesses shall be served in the same manner as if issued from a district court. If any individual fails to obey a subpoena lawfully served, the commissioner shall ~~forthwith~~ report such disobedience, together with a copy of the subpoena and proof of service thereof, to the district court for the county in which the individual was required to appear. Such court shall ~~forthwith~~ cause such individual to be produced and shall impose penalties as though he had disobeyed a subpoena issued out of such court.

(4) Any person ~~willfully~~ knowingly failing to attend, answer, or produce records, documents, or other evidence requested by the commissioner or who ~~willfully~~ knowingly fails to give the commissioner full and truthful information and answer in writing to any material written inquiry of the commissioner, relative to the subject of any such examination, investigation, or hearing, or ~~willfully~~ knowingly fails to appear and testify under oath before the commissioner ~~shall--upon-conviction-thereof,-in-addition-to or-in-lieu-of-any-other-penalty-or-penalties-applicable,--be deemed~~ is guilty of a misdemeanor and, in addition to or in lieu of any other penalty, upon conviction, shall be fined

not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both.

(5) Any person ~~willfully~~ knowingly testifying falsely under oath as to any matter material to any such examination, investigation, or hearing ~~shall~~ is guilty of perjury, and upon conviction ~~thereof~~ shall be ~~guilty of perjury and~~ punished ~~accordingly~~ according to 94-7-202."

Section 6. Section 33-1-411, MCA, is amended to read:

"33-1-411. Destruction of records -- hindrance of examination -- penalty. Any director, officer, agent, or employee of any company who destroys any books, records, or documents required to be kept by law for the purpose of hindering any examination in violation of the requirements of ~~this section~~ 33-1-412 shall be punished by a fine of not more than $1,000~~,~~ ~~and--after~~ After a hearing thereon for that purpose, the commissioner may revoke the certificate of authority of such company."

Section 7. Section 33-1-704, MCA, is amended to read:

"33-1-704. Hearing procedure. (1) ~~Hearings--may--be closed-to--the--public--at--the--commissioner's--discretion, except--that--a--hearing--held-with-respect-to-a-filing-made under-chapter-16-prior-to-the-effective-date-of-such--filing shall--be-closed-to-the-public-unless-otherwise-requested-by the-party-that-made-such--filing.--In--all--other--cases,--a hearing--shall--be--open--to--the--public-if-so-requested-in~~

~~writing by any party to the hearing.~~ All hearings shall be open to the public unless closed pursuant to the provisions of 2-3-203.

(2) The commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf.

(3) The commissioner shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party thereto and whose pecuniary interests ~~are to~~ will be directly and immediately affected by the commissioner's order made upon the hearing.

(4) Formal rules of pleading or evidence need not be observed at any hearing.

(5) Upon written request seasonably made by a party to the hearing and at ~~such~~ that person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of such stenographic record shall be furnished to the commissioner without cost to the commissioner or the state and shall be a part of the

commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings."

Section 8. Section 33-2-105, MCA, is amended to read:

"33-2-105. Suits by unauthorized insurers prohibited. ~~As~~ Except as to transactions ~~not~~ permitted under 33-2-102, no unauthorized insurer shall institute or file or cause to be instituted or filed any suit, action, or proceeding in this state to enforce any right, claim, or demand arising out of any insurance transaction in this state until such insurer has obtained a certificate of authority to transact such insurance in this state."

Section 9. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts — valuation. (1) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on [the operative date of this section], as defined herein, and for all annuities and pure endowments purchased on or after that operative date, under group annuity and pure endowment contracts ~~shall be~~ is the commissioner's reserve valuation method defined in 33-2-525 and the following tables and interest rates:

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(a) for individual annuity and pure endowment contracts issued prior to January 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of this table approved by the commissioner and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual annuity and pure endowment contracts issued on or after January 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of the table approved by the commissioner and 3 1/2% interest;

(c) for all annuities and pure endowments purchased prior to January 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any modification of the table approved by the commissioner and 6% interest;

(d) for all annuities and pure endowments purchased on or after January 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any modification of this

table approved by the commissioner and 3 1/2% interest.

(2) After March 17, 1973, any insurer may file with the commissioner a written notice of its election to comply with the provisions of subsection (1) after a specified date before January 1, 1979, which shall be the operative date of subsection (1) for such insurer. An insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1979."

Section 10. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) The commissioner shall collect in advance and the persons so served shall ~~so~~ pay to the commissioner the following fees and licenses:

(a) certificates of authority:

(i) for filing applications for original ~~certificate~~ <u>certificates</u> of authority, articles of incorporation (except <u>original articles of incorporation of domestic insurers</u> as provided in subsection (b)~~)~~, below) and other charter documents, bylaws, financial statement, examination report, power of attorney to the commissioner, and all other documents and filings required in connection with such application and for issuance of an original certificate of authority, if issued:

(A) domestic insurers.....$ 30.00

(B) foreign insurers.....300.00

(ii) annual continuation of certificate of authority...
.....300.00

(iii) reinstatement of certificate of authority.. 25.00

(b) articles of incorporation:

(i) filing original articles of incorporation of domestic insurer, exclusive of fees required to be paid by the corporation to the secretary of state..... 20.00

(ii) filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation 10.00

(c) filing bylaws or amendment thereto where required 5.00

(d) filing annual statement of insurer, other than as part of application for original certificate of authority... ..... 25.00

(e) agent's license, <u>for</u> property, casualty, surety, <u>and</u> title insurance agents, including disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the agent:

(i) application for original license, including issuance of license, if issued..... 10.00

(ii) appointment of agent, each insurer..... 5.00

(iii) annual renewal or appointment of agent, each insurer..... 5.00

(iv) temporary license..... 10.00

(f) nonresident agent's license, <u>for</u> property, casualty, <u>and</u> title insurance agents, and <u>including</u> disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the agent:

(i) application for original license, including issuance of license, if issued.....100.00

(ii) appointment of agent, each insurer..... 5.00

(iii) annual renewal or appointment of agent, each insurer.....100.00

(g) solicitor's license:

(i) application for original license, including issuance of license, if issued..... 5.00

(ii) annual continuation of license..... 5.00

(h) agent's license, life, disability insurance:

(i) application for original license, each insurer.... ..... 5.00

(ii) annual continuation or renewal of license, each insurer..... 5.00

(iii) temporary license, each insurer..... 5.00

(i) nonresident agent's license, life, disability

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insurance:

(i) application for original license, including issuance of license, if issued, each insurer.....100.00

(ii) annual continuation or renewal of license, each insurer.....100.00

(j) examination for license as agent or solicitor, each examination 10.00

(k) surplus line agent's license:

(i) application for original license and for issuance of license, if issued..... 25.00

(ii) annual renewal or continuation of license... 25.00

(l) adjuster's license:

(i) application for original license and for issuance of license, if issued..... 10.00

(ii) annual continuation or renewal of license... 10.00

(m) insurance vending machine license, each machine, each year 10.00

(n) commissioner's certificate under seal (except when on certificates of authority or licenses)..... 3.00

(o) copies of documents on file in the commissioner's office, per page..... .50

(p) policy forms:

(i) filing each policy form..... 25.00

(ii) filing each application, rider, endorsement, amendment, insert page, schedule ~~or~~ of rates, and

clarification of risks..... 10.00

(iii) maximum charge if policy and all forms submitted at one time or resubmitted for approval within 180 days..... ..... 50.00

(2) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund of this state all fees and licenses received by him under this section."

Section 11. Section 33-2-833, MCA, is amended to read:

"33-2-833. Obligations of ~~home----owners'---loan corporation,~~ federal housing administrator, and national mortgage associations. Notwithstanding other provisions of the law, it ~~shall be~~ is lawful for any insurance company operating under the laws of this state to invest the funds ~~or moneys~~ in ~~their~~ its custody or possession, eligible for investment, ~~in--bonds of the home-owners'-loan-corporation,~~ in debentures issued by the federal housing administrator, and in obligations of national mortgage associations."

Section 12. Section 33-2-1103, MCA, is amended to read:

"33-2-1103. Additional investment authority -- exemption from other investment restrictions -- determination of qualification -- divestiture. (1) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all

other sections of parts 10 and 11 of this chapter, a domestic insurer may also:

(a) invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of 5% of such insurer's assets or 50% of such insurer's surplus as regards policyholders, provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, there shall be included total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

(b) if the insurer's total liabilities, as calculated for national association of insurance commissioners annual statement purposes, are less than 10% of assets, invest any amount in common stock, preferred stock, debt obligations,

and other securities of one or more subsidiaries, provided that, after such investment, the insurer's surplus as regards policyholders, considering such investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;

(c) invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, provided that each such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in this [section]. The total investment of the insurer shall include:

(i) any direct investment by the insurer in an asset;

(ii) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of such subsidiary.

(d) with the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations, or other securities of one or more subsidiaries, provided that after such investment, the insurer's surplus as regards policyholders will be reasonable in relation to the

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insurer's outstanding liabilities and adequate to its financial needs;

(e) invest any amount in the common stock, preferred stock, debt obligations, or other securities of any subsidiary exclusively engaged in holding title to or holding title to and managing or developing real or personal property if, after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs and if following such investment all voting securities of such subsidiary would be owned by the insurer.

(2) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (1) hereof ~~shall~~ are not be subject to any of the otherwise applicable restrictions or prohibitions contained in parts 10 and 11 of this chapter applicable to such investments of insurers.

(3) Whether any investment pursuant to subsection (1) meets the applicable requirements thereof is to be determined immediately after such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value of

all previous investments in equity securities as of the date they were made.

(4) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within 3 years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of parts 10 and 11 of this chapter and the insurer has notified the commissioner thereof."

Section 13. Section 33-3-215, MCA, is amended to read:

"33-3-215. Mutualization of stock insurer. (1) A stock insurer other than a title insurer may become a mutual insurer under ~~such~~ a plan and procedure ~~as may be~~ approved by the commissioner after a hearing thereon.

(2) The commissioner shall not approve any ~~such~~ plan, procedure, or mutualization unless:

(a) it is equitable to stockholders and policyholders;

(b) it is subject to approval by the holders of not less than three-fourths of the insurer's outstanding capital stock having voting rights and by not less than two-thirds of the insurer's policyholders who vote on such plan in person, by proxy, or by mail pursuant to such notice and procedure as may be approved by the commissioner;

(c) if a life insurer, the right to vote thereon is limited to holders of policies other than term or group policies and whose policies have been in force for more than 1 year;

(d) mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair market value thereof as determined by competent disinterested appraisers;

(e) the plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided by ~~[15-1905, R.C.M. 1947]~~ Title 35, chapter 1, part 8, as to rights of nonconsenting stockholders, with respect to consolidation or merger of private corporations;

(f) the plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(g) the mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the states in which it is then authorized to transact insurance and for the kinds of insurance included in its certificates of authority in such states.

(3) This section shall not apply to mutualization under order of court pursuant to rehabilitation or

reorganization of an insurer under chapter 2, part 9."

Section 14. Section 33-3-217, MCA, is amended to read:

"33-3-217. Mergers and consolidations of stock insurers. (1) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock corporations authorized to transact business in this state and by complying with the applicable provisions of the statutes of this state governing the merger or consolidation of stock corporations formed for profit but subject to subsections (2) and (3) below.

(2) No such merger or consolidation ~~shall~~ may be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) is contrary to law;

(b) inequitable to the stockholders of any domestic insurer involved; or

(c) would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) No director, officer, agent, or employee of any insurer party to such merger or consolidation ~~shall~~ may receive any fee, commission, compensation, or other valuable

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consideration ~~whatsoever for~~ in ~~any manner~~ aiding, promoting, or assisting therein except as set forth in such plan or agreement.

(4) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance, or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is

subject to the applicable provisions hereof.

(7) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall ~~therby~~ <u>thereby</u> automatically be extinguished and nullified."

Section 15. Section 33-5-201, MCA, is amended to read:

"33-5-201. Organization of reciprocal insurer. (1) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority a declaration setting forth:

(a) the name of the insurer;

(b) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(c) the kinds of insurance proposed to be transacted;

(d) the names and addresses of the original subscribers;

(e) the designation and appointment of the proposed attorney and a copy of the power of attorney;

(f) the names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(g) the powers of the subscribers' advisory committee and the names and terms of office of the members thereof;

(h) that all moneys paid to the reciprocal [insurer] shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(i) a copy of the subscribers' agreement;

(j) a statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than 6 months at an adequate rate theretofore filed with and approved by the commissioner;

(k) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by 33-5-401 is on hand; and

(l) a copy of each policy, endorsement, and application form it then proposes to issue or use.

(3) ~~Such~~ The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds."

Section 16. Section 33-7-514, MCA, is amended to read:

"33-7-514. Standard provisions. (1) After January 1, 1962, no life benefit certificate ~~shall~~ may be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner.

(2) The certificate ~~shall~~ must contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

(a) title on the face and filing page of the certificate clearly and correctly describing its form;

(b) a provision stating the amount of rates, premiums, or other required contributions, by whatever name known, which are payable by the insured under the certificate;

(c) a provision that the member is entitled to a grace period of not less than a full month (or 30 days at the option of the society) in which the payment of any premium after the first may be made. During such grace period the certificate ~~shall~~ must continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate.

(d) a provision that the member ~~shall be~~ is entitled to have the certificate reinstated at any time within 3 years from the due date of the premium in default, unless

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the ~~certificate has been completely terminated through the~~ application of a nonforfeiture benefit, cash surrender value, or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding 6% per annum compounded annually;

(e) except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66, a provision that, in the event of default in payment of any premium after 3 full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member ~~shall~~ so ~~elect~~ elects prior to the expiration of the grace period of any overdue premium, that default ~~shall~~ may not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan

as may be set forth in the certificate.

(f) a provision that one paid-up nonforfeiture benefit as specified in the certificate ~~shall~~ must become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default;

(g) a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate and a brief general statement of the method used in calculating such benefits;

(h) a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate, whichever is shorter;

(i) a provision that the certificate ~~shall be~~ is incontestable after it has been in force during the lifetime of the member for a period of 2 years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service, and violation of the provisions relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of

temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means may also be excepted. The certificate ~~shall be~~ is incontestable on the grounds of suicide after it has been in force during the lifetime of the member for a period of 2 years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society ~~shall have~~ has the right to contest a reinstated certificate within a period of 2 years from date of reinstatement with the same exceptions as herein provided.

(j) a provision that in case the age of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on

actuarial principles;

(k) a provision or provisions which recite fully or which set forth the substance of all sections of the charter, constitution, laws, or rules of the society in force at the time of issuance of the certificate, the violation of which will result in the termination of or in the reduction of the benefit or benefits payable under the certificate; and

(l) if the constitution or laws of the society provide for expulsion or suspension of a member, a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership, shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

(3) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate."

Section 17. Section 33-10-217, MCA, is amended to read:

"33-10-217. Prevention of impairments. To aid in the detection and prevention of insurer impairments the board of directors is given the following powers and duties:

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(1) The board ~~of directors shall, upon~~ majority vote, notify the commissioner of any information indicating any member insurer may be unable or potentially unable to fulfill its contractual obligations.

(2) The board ~~of directors~~ may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations.

(3) The board ~~of directors~~ may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

(4) The board ~~of directors~~ may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer impairments.

(5) The board ~~of directors~~ shall, at the conclusion of any insurer impairment in which the association carried out its duties under this part or exercised any of its powers under this part, prepare a report on the history and causes of such impairment, based on the information available to the association, and submit such report to the commissioner."

Section 18. Section 33-10-229, MCA, is amended to read:

"33-10-229. Recovery of dividends. (1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order ~~shall have~~ has a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation subject to the limitations of subsections (2) through (4).

(2) No such dividend ~~shall be~~ is recoverable if the insurer shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who ~~is~~ was an affiliate that controlled the insurer at the time the distributions were paid ~~shall be~~ is liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer at the time the distributions were declared ~~shall be~~ is liable up to the amount of distributions he would have received if they had been paid immediately. If two persons

are liable with respect to the same distributions, they ~~shall be~~ are jointly and severally liable.

(4) The maximum amount recoverable under this section ~~shall be~~ is the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.

(5) If any person liable under subsection (3) is insolvent, all its affiliates that controlled it at the time the dividend was paid ~~shall be~~ are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate."

Section 19. Section 33-17-203, MCA, is amended to read:

"33-17-203. General qualification for license as life or disability insurance agent. For the protection of the people of this state the commissioner ~~shall~~ may not issue, continue, or permit to exist any agent license as to life or disability insurance except in compliance with this chapter. ~~or as to any~~ In addition, the individual ~~not qualified therefor~~ must qualify as follows:

(1) ~~must~~ be 18 years of age or more;

(2) ~~must~~ be a resident in and of this state or of another state if by reciprocal arrangements made by the commissioner with such other state similar privileges therein are granted to residents of this state;

(3) ~~must~~ have been appointed as such an agent by an authorized insurer, subject to issuance of the license;

(4) ~~must~~ be competent, trustworthy, and of good reputation;

(5) ~~must~~ have had experience or training or be otherwise adequately qualified in the kind or kinds of insurance as to which he is to be licensed, and be reasonably familiar with the provisions of this code governing his operations as such an agent and with the provisions of the policies and contracts he proposes to offer under the license;

(6) ~~must~~ pass any written examination for the license required under this chapter;

(7) ~~must~~ not use or intend to use the license principally for the writing of insurance on the lives or interests of himself or his relatives to the second degree;

(8) ~~must~~ not be a funeral director, undertaker, or mortician or an officer, employee, or representative thereof."

Section 20. Section 33-17-211, MCA, is amended to read:

"33-17-211. Application for license. (1) Application for an agent or solicitor license ~~shall~~ must be made to the commissioner by the applicant and be signed and sworn to by the applicant before a notary public or other person

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authorized by law to take acknowledgments of deeds.

(2) The commissioner shall designate and prepare forms for application for license which ~~shall~~ must require full answers to such questions as may reasonably be necessary to determine the applicant's identity, residence, personal history, business record, experience and training in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's license, the application ~~shall~~ must state the kinds of insurance proposed to be transacted and be accompanied by written appointment of the applicant as agent by an authorized insurer, subject to issuance of the license.

(4) If for a solicitor's license, the application ~~shall~~ must be accompanied by written appointment of applicant as solicitor by a licensed agent, subject to issuance of the license.

(5) If the applicant for an agent license is a firm or corporation, the application shall show, in addition, the names of all members, officers, and directors and shall designate each individual who is to exercise the powers to be conferred by the license upon the firm or corporation. Each such individual so designated shall furnish information

as to himself, as part of the application, as though for an individual license.

(6) If the applicant for an agent license is an agents' association pursuant to 33-17-205, the application ~~shall~~ must show the names and residence addresses of the association's officers and trustees.

(7) If for license as either agent or solicitor, the application ~~shall~~ must also show whether applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any such license was ever refused, suspended, or revoked; whether any insurer, general agent, or agent, in the case of a solicitor application, claims applicant to be indebted to it and, if so, the details thereof and the defenses, if any, of the applicant thereto; whether applicant ever had an agency contract canceled and the facts thereof; and if applicant is married, like information with respect to the applicant's spouse.

(8) The commissioner shall require as part of the application for license the certificate of an officer or representative of the insurer proposed to be represented, in the case of applicants for license as agent, or of the proposed employing agent, in the case of applicants for license as solicitor, as to whether the applicant is known to such officer or representative, whether the insurer or agent has investigated the character and business record of

the applicant and the uses to be made of the license, if granted, and his opinion, based on such investigation, as to applicant's trustworthiness and competence and whether the applicant will use the license principally for the purpose of insuring the applicant's own risks or interests and those of the applicant's relatives or employer.

(9) All such applications ~~shall~~ must be accompanied by the applicable license fee, appointment of agent fee where applicable, and examination fee where required under 33-17-212, all in the respective amounts stated in 33-2-708."

Section 21. Section 33-17-213, MCA, is amended to read:

"33-17-213. Conduct of examinations. (1) The commissioner shall make any examination required under 33-17-212 available to applicants with reasonable frequency and at a place in this state reasonably accessible to ~~such~~ the applicants. The commissioner shall make any such examination available at his offices at Helena, Montana, at times within his discretion but at least once a month.

(2) All the kinds of insurance or ~~class~~ classes thereof, as referred to in 33-17-212(3), which the applicant proposes to transact under the license applied for shall be included in the same examination.

(3) The commissioner shall give, conduct, and grade

all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(4) The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same kind or kinds of insurance."

Section 22. Section 33-17-1004, MCA, is amended to read:

"33-17-1004. Acting as insurance agent, solicitor, or adjuster without license -- penalty. Any person, firm, association, or corporation who or which, in this state, acts as an insurance agent, solicitor, or adjuster without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this chapter ~~shall upon conviction be~~ is guilty of a misdemeanor and, upon conviction, shall be fined $500 or imprisoned in the county jail for 90 days or both ~~such fine and imprisonment~~."

Section 23. Section 33-18-301, MCA, is amended to read:

"33-18-301. Prohibited relations with mortuaries. (1) No life insurer ~~shall~~ may own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking establishment or permit its officers, employees, or representatives to own, operate, maintain, or be employed in any such business.

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(2) No life insurer ~~shall~~ may contract or agree with any funeral director, mortuary, or undertaker to the effect that such funeral director, undertaker, or mortuary shall conduct the funeral of any person insured by such insurer.

(3) Each violation of this section ~~shall constitute~~ constitutes a misdemeanor punishable by a fine of not more than $1,000 or by imprisonment ~~at hard labor~~ for not more than 6 months or by both such fine and imprisonment ~~in the discretion of the court~~."

Section 24. Section 33-20-213, MCA, is amended to read:

"33-20-213. Operative date. After July 1, 1945, any insurer could have filed with the state auditor a written notice of its election to comply with the provisions of this part, except 33-20-206 and 33-20-207, after a specified date before January 1, 1948, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer with respect to such policies), this part, except 33-20-206 and 33-20-207, shall have become operative with respect to the policies specified in such notice thereafter issued by such insurer. As to all of its policies and contracts with respect to which an insurer makes no such election, the operative date of this part, except 33-20-206 and 33-20-207, with respect to such

policies and contracts for such insurer is January 1, 1948."

Section 25. Section 33-20-1111, MCA, is amended to read:

"33-20-1111. Dependents of employee and labor union groups -- coverage. Any group life policy issued under 33-20-1101, 33-20-1102, or 33-20-1103, may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

(1) The premium for the insurance shall be paid by the policyholder, either from the employer's or union's funds or funds contributed by the employer or union or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least 75% of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

(2) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer, or union.

(3) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse ~~shall be~~ is entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance, without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, subject to the requirements of subsections (1), (2), and (3) of ~~[33-20-1208]~~ 33-20-1209. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under 33-20-1210, the spouse ~~shall~~ is also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above. If the spouse dies within the period during which he would have been entitled to have an individual policy issued in accordance with this provision, the amount of life insurance which he

would have been entitled to have issued under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(4) Notwithstanding 33-20-1208, only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate."

Section 26. Section 33-22-202, MCA, is amended to read:

"33-22-202. Required provisions -- captions -- omissions -- substitutions -- order. (1) Except as provided in subsection (2) below, each such policy delivered or issued for delivery to any person in this state ~~shall~~ must contain the provisions specified in 33-22-204 through 33-22-215, in the words in which the same appear, except that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision ~~shall~~ must be preceded individually by the applicable caption shown or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may

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approve.

(2) If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(3) The provisions which are the subject of ~~[40-4007 to 40-4030]~~ 33-22-204 through 33-22-232 or any corresponding provisions which are used in lieu thereof in accordance with such sections shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued."

Section 27. Section 33-17-216, MCA, is amended to read:

"33-17-216. Temporary agent licenses -- fee. (1) The commissioner may issue a temporary license as agent to or with respect to an individual qualified therefor only as to

age, residence, and trustworthiness and without requiring such individual to take an examination, in the following cases:

(a) to the surviving spouse or next of kin or to the administrator or executor, or the employee of such administrator or executor, of a licensed agent ~~becoming deceased~~ upon such agent's death;

(b) to the spouse, next of kin, employee, or legal guardian of a licensed agent disabled by ~~sickness~~, injury, or ~~insanity~~ physical or mental illness;

(c) to an employee of a firm, or officer or employee of a corporation, licensed as agent, upon the death or disability of an individual designated in the license to exercise the powers thereof;

(d) to the designee of a licensed agent entering upon active service in the armed forces of the United States of America;

(e) upon the request of the insurer, to an applicant for a license as a life insurance agent, pending the taking of any examination required of the applicant by the commissioner under 33-17-212, if the applicant is duly enrolled in and is actively pursuing an adequate course of instruction, as provided by or through the insurer, in preparation for such examination. Such license shall be for a period of not over 90 days or until the applicant has had

a reasonable opportunity to take such examination and be informed by the commissioner as to the results thereof, whichever is the shorter period, but subject to extension by the commissioner as provided in subsection (3) ~~below~~.

(2) The temporary license shall be issued upon application filed with the commissioner in such form and containing such information as the commissioner may reasonably require and upon payment of the applicable fee as stated in 33-2-708.

(3) The temporary license shall be for a period of not over 90 days, subject to extension by the commissioner in his discretion for an additional period of not more than 90 days, except that such a license issued pursuant to subsection (1)(a) ~~above~~ may be continued without payment of an additional fee until the executor or administrator disposes of the insurance business but not to exceed a period of 15 months. ~~Temporary~~ A temporary license issued to the next of kin under such subsection (1)(a) ~~shall~~ may not be extended for an additional term ~~or--terms~~ after the appointment and qualification of ~~such~~ an administrator or executor.

(4) The fee paid for the temporary license may be applied upon the fee required for ~~any~~ a permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance."

Section 28. Section 33-20-121, MCA, is amended to read:

"33-20-121. Prohibited provisions -- limitations on liability. (1) No policy of life insurance ~~shall~~ may be delivered or issued for delivery in this state if it contains any of the following provisions:

(a) a provision for a period shorter than that provided by statute within which an action at law or in equity may be commenced on ~~such a~~ the policy;

(b) a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(i) death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces or of any act or hazard of such war or action or of service in the military, naval, or air forces or in civilian forces auxiliary thereto or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such military action;

(ii) death as a result of aviation or any air travel or flight;

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(iii) death as a result of a specified hazardous occupation or occupations;

(iv) death while the insured is a resident outside the continental United States and Canada; or

(v) death within 2 years from the date of issue of the policy as a result of suicide, while ~~sane or insane~~ seriously mentally ill or otherwise.

(2) A policy which contains any exclusion or restriction pursuant to subsection (1) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioner's reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(3) This section ~~shall~~ does not apply to industrial life insurance, group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(4) Nothing contained in this section ~~shall prohibit~~ prohibits any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section."

Section 29. Repealer. Section 40-1723, R.C.M. 1947, is repealed.

-End-

March 5, 1979
Business & Industry
46th Legislative Session

The Business & Industry Committee held a meeting March 5, at 10:00 a.m. in room 437 with Chairman Joe Quilici presiding. All members were present.

Hearing was opened on SB 101.

Senator Hazelbaker, sponsor, introduced the bill to the committee.

Jim Lear, representing the Code Commissioner, spoke in support of the bill. He went thru the section of the bill and explained the changes.

Rita Thissen, Mt. Insurance Dept., stated that the dept. had no problems with the bill.

There were no opponents to SB 101.

Questions from the committee followed.

Senator Hazelbaker was not present to close. Mr. Lear closed for Senator Hazelbaker.

SB 383

Senator Thomas, sponsor, introduced the bill to the committee. The bill would authorize securities that may be pledged to secure deposits of public funds.

Tom Harrison, representing D.A. Davidson, spoke in support of the bill. He said this bill would allow more financial institutions the opportunity to bid.

Mr. Bruce MacKenzie, D.A. Davidson, said this bill would enable the investment companies to invest in Montana. Also it would increase the marketability and decrease the rates.

Harold Pitts, Mt. Bankers Assoc., arose in support of the bill.

There were no opponents to SB 383.

Questions from the committee followed.

Senator Thomas closed. He stated that the bill would allow diversification in marketing and he urged a do pass on the bill.

Rep. Ellerd asked Mr. Strope if he would support the bill if it applied only to tavern owners. He said yes but it would be the same as SB 108 in that case. Rep. Ellerd asked Mr. Strope to explain in more detail what he meant when he said this bill was in violation of the rules.

Senator Regan closed on SB 302.

Chairman Quilici said that the committee would have to get a ruling from the rules committee before any action could be taken on SB 302.

EXECUTIVE SESSION;

Action on SB 101.

Rep. Metcalf made a motion that SB 101 BE CONCURRED IN. The motion was discussed. A vote carried unanimously. Rep. Metcalf moved that SB 101 be placed on the consent calendar. Vote was unanimous. Rep. Tropila abstained because he was not present to hear the bill. Rep. Metcalf was assigned to carry SB 101 in the House.

SB 383.

Rep. Ellison moved that SB 383 BE CONCURRED IN. Discussion followed. A vote was taken and carried unanimously. Rep. Ellison will carry SB 383 in the House.

SB 399

Rep. Ellison moved that SB 399 BE CONCURRED IN. Following discussion a roll call vote was taken and carried 11 - 4 with 3 abstaining and 1 absent. Rep. Ellison will carry SB 399 in the House.

SB 70, hearing on Feb. 28, 1979.

Rep. Hemstad moved that the amendments submitted by Zion Law Firm be adopted omitting the part referring to the statement of intent. (see copy attached) Discussion on the amendments followed. Wayne Budt from the PSC answered questions concerning the amendments. A vote carried 12 - 4 with 3 absent to amend.

Rep. Hemstad made a motion that SB 70 AS AMENDED BE CONCURRED IN. Following discussion a vote was called and carried 11 - 5 with 3 absent.

Meeting adjourned at 11:30 a.m.

Respectfully submitted,

Joe Quilici

JOE QUILICI, Chairman

46TH LEGISLATIVE SESSION

COMMITTEE ON BUSINESS & INDUSTRY

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON-CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON-CURRED IN DATE
SB #89	1/12/79	1/22/79	1/22/79	1/22/79					
SB #92	1/12/79	1/27/79	1/27/79	1/27/79					
SB #93	1/12/79	1/27/79	1/27/79	1/27/79					
SB #94	1/12/79	1/27/79	1/27/79	1/27/79					
SB #99	1/17/79	1/26/79	2/1/79		2/1/79				
SB #99	2/6/79	2/10/79	2/10/79			2/10/79			
SB #101	1/15/79	1/27/79	1/27/79			1/27/79			
SB #108	1/16/79	1/23/79	1/31/79			2/5/79			
SB #117	1/16/79	1/23/79	1/23/79	1/23/79					
SB #139	1/17/79	Transferred to Judiciary			2/2/79	----------			
SB #148	1/18/79	2/3/79	2/6/79			2/6/79			
SB #157	1/18/79	2/2/79	2/2/79	2/2/79					
SB #180	1/22/79	--------	TABLED						
SB #191	1/24/79	1/29/79	2/14/79		2/14/79				
SB #201	1/27/79	1/29/79	1/29/79	1/29/79					
SB #209	1/24/79	2/6/79	2/10/79			2/10/79			

Use a separate sheet for Senate, House Bills, and Resolutions.

At this point Senator Regan left the meeting.

CONSIDERATION OF SB 101: An act to generally revise and clarify the laws relating to insurance and insurance companies; and repealing section 40-1723, RMC 1947.

Chairman Hazelbaker called on Mr. Jim Lear, representing the Code Commissioner, to explain SB 101 to the Committee. Mr. Lear highlighted the changes proposed by SB 101 and then gave a list of proposed amendments to each member of the Committee for their consideration. Rita Theisen, Attorney for the office of the Commissioner of Insurance, stated they had no objections to the amendments being proposed. Senator Dover moved the amendments be accepted. Senator Lowe seconded the motion. The motion carried unanimously.

DISPOSITION OF SB 101: Senator Dover moved SB 101 receive a DO PASS as Amended recommendation. Senator Peterson seconded the motion. The motion carried unanimously.

CONSIDERATION OF SB 139: An act to clarify what constitutes the Montana Insurance Code; amending section 33-1-101, MCA.

Chairman Hazelbaker called on Bob Pyfer, representing the Code Commissioner, to explain SB 139 to the Committee. Mr. Pyfer summarized the changes proposed by SB 139 for the Committee.

Chairman Hazelbaker asked for any more proponents to SB 139 and, hearing none, asked for any opponents to SB 139. Mr. Thomas Harrison, MPS and Blue Shield, spoke in opposition to SB 139. There was some discussion over the area of Mr. Harrison's concern. Ms. Driscoll also responded to the opposition expressed by Mr. Harrison. Chairman Hazelbaker suggested that Mr. Harrison, Mr. Pyfer, and the Attorney for the office of the Commissioner of Insurance get together and propose an amendment to SB 139 that would address the area of Mr. Harrison's concern and be agreeable to all parties.

Senator Dover moved that the Committee defer action on SB 139 until they receive the proposed amendment. The motion carried unanimously.

ADJOURNMENT: There being no further business, Senator Hazelbaker adjourned the meeting at 12:20 P.M.

Senator Frank Hazelbaker, Chairman

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

46TH LEGISLATIVE SESSION - - 1979 Date Jan. 27

NAME	PRESENT	ABSENT	EXCUSED
Pat Goodover, Vice Chairman	✓		
Chet Blaylock	✓		
Harold Dover	✓		
Tom Hager	✓		
Allen Kolstad	✓		
Bill Lowe	✓		
John Mehrens	✓		
Bob Peterson	✓		
Pat Regan	✓		
Frank Hazelbaker, Chairman	✓		

Marge Nichols
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STANDING COMMITTEE REPORT

January 27, 19 79

MR. President:

We, your committee on Business and Industry

having had under consideration Senate Bill No. 101

Respectfully report as follows: That Senate Bill No. 101
Introduced bill be amended as follows:

1. Page 7, line 24 through line 2, page 8.
Strike: "and, in addition to or in lieu of any other penalty, upon conviction, shall be fined not to exceed $500 or be imprisoned in the county jail for a term not to exceed 6 months, or both"

2. Page 8, line 7.
Following: "to"
Strike: "94-7-232"
Insert: "45-7-201"

3. Page 8, line 11.
Following: "who"
Insert: "for the purpose of hindering any examination conducted pursuant to this part"

4. Page 8, lines 12 through 14.
Strike: "for the purpose of hindering any examination in violation of the requirements of"

DO PASS

continued

Chairman.

STATE PUB. CO.
Helena, Mont.

January 27 19 79

5. Page 8. Line 14.
Strike: "33-1-412"

6. Page 8, line 15.
Following: "After"
Strike: "a"
Insert: "notice and "

7. Page 8, lines 15 and 16.
Following: "hearing"
Strike: "thereon for that purpose"
Insert: "inaaccordance with Title 33, chapter 1, part 7"

B.A.

and as so amended,
DO PASS
YES.

HAZELBAKER
Chairman.

STATE PUB. CO.
Helena, Mont.

SENATE _____ COMMITTEE

BILL Insurance Commissioner } Many Bill VISITORS' REGISTER DATE 1/27/79

(SB# 9, 10, 64, 80, 81, 83, 85, 86, 92, 93, 94, 101 + 139

Please note bill no.

NAME	REPRESENTING	BILL #	(check one) SUPPORT	OPPO
Ellen Drake	American Ins	all		
W Bruce Clarke	Ind. Ins Agents of Montana	all		
Virgil E. Miller	Blue Cross of Mont	139		
Janet L. Hoffner	Blue Cross of Montana	139		
John Fechter	Ins Dept	(7) bills		

NAME: Terry Meagher DATE: 1-27-79

ADDRESS: 123 So. Fee St., Helena, Mt. 59601

PHONE: 442-0682

REPRESENTING WHOM? Montana Dept of Insurance

APPEARING ON WHICH PROPOSAL: SB 9, 10, 64, 80, 81, 83, 85, 86, 92, 93, 94, 101, 139

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Rita Thomas DATE: 1-27-79

ADDRESS: Ins. Dept Mitchell Bldg

PHONE: 449-2996

REPRESENTING WHOM? Ins. Dept

APPEARING ON WHICH PROPOSAL: All ins. bills heard today

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Josephine M. Driscoll DATE: 1-27-79

ADDRESS: Ins. Dept. Mitchell Bldg. Helena

PHONE: 449-2996

REPRESENTING WHOM? Insurance Dept., State Auditor's Office

APPEARING ON WHICH PROPOSAL: SB 9, 63, 64, 80, 81, 83, 85, 86, 92, 93, 94, 1 Hearing 101-139)

DO YOU: SUPPORT? ✓ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

SENATE BILL NO. 101

INTRODUCED BY HAZELBAKER

BY REQUEST OF THE CODE COMMISSIONER

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO INSURANCE AND INSURANCE COMPANIES; AND REPEALING SECTION 40-1723, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-1-201, MCA, is amended to read:

"33-1-201. Definitions -- insurance in general. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) An "alien insurer" is one formed under the laws of any country other than the United States ~~of America~~, its states, districts, territories, and commonwealths.

(2) An "authorized insurer" is one duly authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state.

(3) A "domestic insurer" is one formed under the laws of this state.

(4) A "foreign insurer" is one formed under the laws of any jurisdiction other than this state. Except where distinguished by context, foreign insurer includes also an alien insurer.

(5) "Insurance" is a contract whereby one undertakes to indemnify another or pay or provide a specified or determinable amount or benefit upon determinable contingencies.

(6) "Insurer" includes every person engaged as indemnitor, surety, or contractor in the business of entering into contracts of insurance.

(7) "State", when used as to jurisdiction, means a state, the District of Columbia, or a territory, commonwealth, or possession of the United States ~~of America~~.

(8) "Transact", with respect to insurance, includes any of the following:

(a) solicitation and inducement;

(b) preliminary negotiations;

(c) effectuation of a contract of insurance;

(d) transaction of matters subsequent to effectuation of the contract of insurance and arising out of it.

(9) An "unauthorized insurer" is one not authorized by subsisting certificate of authority issued by the commissioner to transact insurance in this state."

Section 2. Section 33-1-202, MCA, is amended to read:

"33-1-202. Definitions -- entities. For the purposes of this code, the following definitions apply unless the context requires otherwise:

(1) "Commissioner" means the commissioner of insurance

of the state of Montana ~~unless--the--context---requires otherwise.~~

(2) "Department" means the department of insurance of the state of Montana ~~unless-the-context-requires--otherwise.~~

(3) "Person" includes an individual, insurer, company, association, organization, Lloyd's, society, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, ~~and~~ or any other legal entity."

Section 3. Section 33-1-211, MCA, is amended to read:

"33-1-211. Surety insurance. Surety insurance includes:

(1) fidelity insurance which is insurance guaranteeing the fidelity of persons holding positions of public or private trust;

(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship;

(3) insurance indemnifying banks, bankers, brokers, or financial or moneyed corporations or associations:

(a) against check forgery or alteration or against loss resulting from any cause of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts, or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry,

watches, necklaces, bracelets, gems, or precious and semiprecious stones, including any loss while ~~the--same--are~~ being transported in armored motor vehicles, by mail, or by messenger but not including any other risks of transportation or navigation; ~~also-insurance~~

(b) against loss or damage to ~~such-an~~ the insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein caused by burglary, robbery, theft, ~~vandalism,~~ or criminal mischief or any attempt thereat."

Section 4. Section 33-1-303, MCA, is amended to read:

"33-1-303. Deputies and assistants -- employment, compensation, and termination. (1) The commissioner shall appoint a chief deputy insurance commissioner who shall be in charge of the insurance department under the direction and control of the commissioner.

(2) The commissioner may appoint additional deputy insurance commissioners for ~~such~~ the purposes ~~as~~ that he ~~may designate~~ designates.

(3) The commissioner may employ a competent insurance actuary to perform actuarial duties, if any, of the department, to take charge of or assist in the examination of insurers, and to perform other duties assigned to him.

(4) The commissioner may appoint or employ ~~such~~ examiners to conduct or assist in examinations of insurers and others provided for under the code. ~~as-may~~ Examiners

must be competent, because of experience or special education or training, to fulfill the responsibilities of an insurance examiner.

(5) The commissioner shall appoint and employ a field investigator whose primary duty it ~~shall be~~ is, as directed by the commissioner, to make investigations in this state of violations or claimed violations of this code.

(6) The commissioner may appoint a chief clerk for the insurance department and employ such other assistants and clerks as may be necessary to assist him properly to discharge the duties imposed upon him under this code.

(7) The commissioner may at any time terminate the appointment, designation, or employment of any such deputy, actuary, chief clerk, or other employee.

(8) The commissioner may from time to time contract for and procure, on a fee or part-time basis, or both, such actuarial, technical, or other professional services as he may require for the discharge of his duties.

(9) The compensation of ~~all such personnel so appointed, employed, or contracted for by him~~ the commissioner's personal staff, as defined in Title 2, chapter 18, part 1, shall be as fixed by the commissioner but in the aggregate ~~shall~~ may not exceed current funds appropriated by the legislature to the insurance department or otherwise currently available for the purpose."

Section 5. Section 33-1-315, MCA, is amended to read:

"33-1-315. Witnesses -- production of records -- subpoena -- failure to respond -- perjury. (1) With respect to the subject of any examination, investigation, or hearing being conducted by him, the commissioner or his examiner, if general written authority ~~therefor~~ has been given the examiner by the commissioner, may subpoena witnesses and administer oaths or affirmations and examine any individual under oath and may require and compel the production of records, books, papers, contracts, and other documents by attachments, if necessary. If in connection with any examination of an insurer the commissioner desires to examine any officer, director, or manager thereof who is then outside this state, the commissioner ~~is authorized to~~ may conduct and enforce by all appropriate and available means any such examination under oath in any other state or territory of the United States in which such officer, director, or manager may then presently be, to the full extent permitted by the laws of such other state or territory, this special authorization considered.

(2) Witness fees and mileage, if claimed, shall be allowed the same as for testimony in a district court. Witness fees, mileage, and the actual expenses necessarily incurred in securing attendance of witnesses and their testimony shall be itemized and shall be paid by the person

being examined if such person is found to have been in violation of the law as to the matter with respect to which such witness was subpoenaed or by the person, if other than the commissioner, at whose request the hearing is held.

(3) Subpoenas of witnesses shall be served in the same manner as if issued from a district court. If any individual fails to obey a subpoena lawfully served, the commissioner shall ~~forthwith~~ report such disobedience, together with a copy of the subpoena and proof of service thereof, to the district court for the county in which the individual was required to appear. Such court shall ~~forthwith~~ cause such individual to be produced and shall impose penalties as though he had disobeyed a subpoena issued out of such court.

(4) Any person ~~wilfully~~ knowingly failing to attend, answer, or produce records, documents, or other evidence requested by the commissioner or who ~~wilfully~~ knowingly fails to give the commissioner full and truthful information and answer in writing to any material written inquiry of the commissioner, relative to the subject of any such examination, investigation, or hearing, or ~~wilfully~~ knowingly fails to appear and testify under oath before the commissioner ~~shall--upon-conviction-thereof,-in-addition-to or-in-lieu-of-any-other-penalty-or-penalties-applicable,--be~~ deemed is guilty of a misdemeanor ~~and,-in-addition-to-or-in lieu-of-any-other-penalty,-upon-conviction,-shall--be--fined not-to-exceed-$500-or-be-imprisoned-in-the-county-jail-for-a term-not-to-exceed-6-months,-or-both~~.

(5) Any person ~~wilfully~~ knowingly testifying falsely under oath as to any matter material to any such examination, investigation, or hearing ~~shall~~ is guilty of perjury, and upon conviction ~~thereof~~ shall be ~~guilty--of perjury--and~~ punished ~~accordingly~~ according to ~~94-7-202~~ 45-7-201."

Section 6. Section 33-1-411, MCA, is amended to read:

"33-1-411. Destruction of records -- hindrance of examination -- penalty. Any director, officer, agent, or employee of any company who FOR THE PURPOSE OF HINDERING ANY EXAMINATION CONDUCTED PURSUANT TO THIS PART destroys any books, records, or documents required to be kept by law ~~for the-purpose-of-hindering-any-examination-in-violation-of-the requirements-of this-section~~ ~~33-1-412~~ shall be punished by a fine of not more than $1,000~~,~~ ~~and-after~~ After a NOTICE AND hearing ~~thereon-for-that-purpose~~ IN ACCORDANCE WITH TITLE 33, CHAPTER 1, PART 7, the commissioner may revoke the certificate of authority of such company."

Section 7. Section 33-1-704, MCA, is amended to read:

"33-1-704. Hearing procedure. (1) ~~Hearings--may--be closed-to--the--public--at--the--commissioner's--discretion, except--that--a--hearing--held-with-respect-to-a-filing-made under-chapter-16-prior-to-the-effective-date-of-such--filing~~

~~shall--be-closed-to-the-public-unless-otherwise-requested-by the-party-that-made-such--filing.--In--all--other--cases,--a hearing--shall--be--open--to--the--public-if-so-requested-in writing-by-any-party-to-the-hearing.~~ All hearings shall be open to the public unless closed pursuant to the provisions of 2-3-203.

(2) The commissioner shall allow any party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the commissioner to compel attendance of witnesses and production of evidence in his behalf.

(3) The commissioner shall permit to become a party to the hearing by intervention, if timely, any person who was not an original party thereto and whose pecuniary interests ~~are-to~~ will be directly and immediately affected by the commissioner's order made upon the hearing.

(4) Formal rules of pleading or evidence need not be observed at any hearing.

(5) Upon written request seasonably made by a party to the hearing and at ~~such~~ that person's expense, the commissioner shall cause a full stenographic record of the proceedings to be made by a competent reporter. If

transcribed, a copy of such stenographic record shall be furnished to the commissioner without cost to the commissioner or the state and shall be a part of the commissioner's record of the hearing. If so transcribed, a copy of such stenographic record shall be furnished to any other party to such hearing at the request and expense of such other party. If no stenographic record is made or transcribed, the commissioner shall prepare an adequate record of the evidence and of the proceedings."

Section 8. Section 33-2-105, MCA, is amended to read:

"33-2-105. Suits by unauthorized insurers prohibited. ~~As~~ Except as to transactions ~~not~~ permitted under 33-2-102, no unauthorized insurer shall institute or file or cause to be instituted or filed any suit, action, or proceeding in this state to enforce any right, claim, or demand arising out of any insurance transaction in this state until such insurer has obtained a certificate of authority to transact such insurance in this state."

Section 9. Section 33-2-524, MCA, is amended to read:

"33-2-524. Individual and group annuity and pure endowment contracts -- valuation. (1) The minimum standard for the valuation of all individual annuity and pure endowment contracts issued on ~~[~~the operative date of this section~~]~~, as defined herein, and for all annuities and pure endowments purchased on or after that operative date, under

group annuity and pure endowment contracts ~~shall be~~ is the commissioner's reserve valuation method defined in 33-2-525 and the following tables and interest rates:

(a) for individual annuity and pure endowment contracts issued prior to January 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of this table approved by the commissioner and 6% interest for single premium immediate annuity contracts and 4% interest for all other individual annuity and pure endowment contracts;

(b) for individual annuity and pure endowment contracts issued on or after January 1, 1986, excluding any disability and accidental death benefits in such contracts, the 1971 individual annuity mortality table or any modification of the table approved by the commissioner and 3 1/2% interest;

(c) for all annuities and pure endowments purchased prior to January 1, 1986, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any modification of the table approved by the commissioner and 6% interest;

(d) for all annuities and pure endowments purchased on or after January 1, 1986, under group annuity and pure

endowment contracts, excluding any disability and accidental death benefits purchased under such contracts, the 1971 group annuity mortality table or any modification of this table approved by the commissioner and 3 1/2% interest.

(2) After March 17, 1973, any insurer may file with the commissioner a written notice of its election to comply with the provisions of subsection (1) after a specified date before January 1, 1979, which shall be the operative date of subsection (1) for such insurer. An insurer may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If an insurer makes no such election, the operative date of this section for such insurer shall be January 1, 1979."

Section 10. Section 33-2-708, MCA, is amended to read:

"33-2-708. Fees and licenses. (1) The commissioner shall collect in advance and the persons so served shall ~~so~~ pay to the commissioner the following fees and licenses:

(a) certificates of authority:

(i) for filing applications for original ~~certificate~~ certificates of authority, articles of incorporation (except original articles of incorporation of domestic insurers as provided in subsection (b)~~,~~ below) and other charter documents, bylaws, financial statement, examination report, power of attorney to the commissioner, and all other

documents and filings required in connection with such application and for issuance of an original certificate of authority, if issued:

(A) domestic insurers.....$ 30.00

(B) foreign insurers.....300.00

(ii) annual continuation of certificate of authority... .....300.00

(iii) reinstatement of certificate of authority.. 25.00

(b) articles of incorporation:

(i) filing original articles of incorporation of domestic insurer, exclusive of fees required to be paid by the corporation to the secretary of state..... 20.00

(ii) filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation 10.00

(c) filing bylaws or amendment thereto where required 5.00

(d) filing annual statement of insurer, other than as part of application for original certificate of authority... ..... 25.00

(e) agent's license, <u>for</u> property, casualty, surety, <u>and</u> title insurance agents, including disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the

agent:

(i) application for original license, including issuance of license, if issued..... 10.00

(ii) appointment of agent, each insurer..... 5.00

(iii) annual renewal or appointment of agent, each insurer..... 5.00

(iv) temporary license..... 10.00

(f) nonresident agent's license, <u>for</u> property, casualty, <u>and</u> title insurance agents, and <u>including</u> disability insurance without additional license or fee when written by property, casualty, or surety insurer otherwise represented by the agent:

(i) application for original license, including issuance of license, if issued.....100.00

(ii) appointment of agent, each insurer..... 5.00

(iii) annual renewal or appointment of agent, each insurer.....100.00

(g) solicitor's license:

(i) application for original license, including issuance of license, if issued..... 5.00

(ii) annual continuation of license..... 5.00

(h) agent's license, life, disability insurance:

(i) application for original license, each insurer.... ..... 5.00

(ii) annual continuation or renewal of license, each

insurer..... 5.00

(iii) temporary license, each insurer..... 5.00

(i) nonresident agent's license, life, disability insurance:

(i) application for original license, including issuance of license, if issued, each insurer.....100.00

(ii) annual continuation or renewal of license, each insurer.....100.00

(j) examination for license as agent or solicitor, each examination 10.00

(k) surplus line agent's license:

(i) application for original license and for issuance of license, if issued..... 25.00

(ii) annual renewal or continuation of license... 25.00

(l) adjuster's license:

(i) application for original license and for issuance of license, if issued..... 10.00

(ii) annual continuation or renewal of license... 10.00

(m) insurance vending machine license, each machine, each year 10.00

(n) commissioner's certificate under seal (except when on certificates of authority or licenses)..... 3.00

(o) copies of documents on file in the commissioner's office, per page..... .50

(p) policy forms:

(i) filing each policy form..... 25.00

(ii) filing each application, rider, endorsement, amendment, insert page, schedule or of rates, and clarification of risks..... 10.00

(iii) maximum charge if policy and all forms submitted at one time or resubmitted for approval within 180 days..... 50.00

(2) The commissioner shall promptly deposit with the state treasurer to the credit of the general fund of this state all fees and licenses received by him under this section."

Section 11. Section 33-2-833, MCA, is amended to read:

"33-2-833. Obligations of ~~home----owners'---loan corporation,~~ federal housing administrator, and national mortgage associations. Notwithstanding other provisions of the law, it ~~shall be~~ is lawful for any insurance company operating under the laws of this state to invest the funds ~~or moneys~~ in ~~their~~ its custody or possession, eligible for investment, ~~in--bonds-of-the-home-owners'-loan-corporation,~~ in debentures issued by the federal housing administrator, and in obligations of national mortgage associations."

Section 12. Section 33-2-1103, MCA, is amended to read:

"33-2-1103. Additional investment authority -- exemption from other investment restrictions --

determination of qualification -- divestiture. (1) In addition to investments in common stock, preferred stock, debt obligations, and other securities permitted under all other sections of parts 10 and 11 of this chapter, a domestic insurer may also:

(a) invest, in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, amounts which do not exceed the lesser of 5% of such insurer's assets or 50% of such insurer's surplus as regards policyholders, provided that after such investments the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs. In calculating the amount of such investments, there shall be included total net moneys or other consideration expended and obligations assumed in the acquisition or formation of a subsidiary, including all organizational expenses and contributions to capital and surplus of such subsidiary whether or not represented by the purchase of capital stock or issuance of other securities, and all amounts expended in acquiring additional common stock, preferred stock, debt obligations, and other securities and all contributions to the capital or surplus of a subsidiary subsequent to its acquisition or formation.

(b) if the insurer's total liabilities, as calculated

for national association of insurance commissioners annual statement purposes, are less than 10% of assets, invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, provided that, after such investment, the insurer's surplus as regards policyholders, considering such investment as if it were a disallowed asset, will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;

(c) invest any amount in common stock, preferred stock, debt obligations, and other securities of one or more subsidiaries, provided that each such subsidiary agrees to limit its investments in any asset so that such investments will not cause the amount of the total investment of the insurer to exceed any of the investment limitations specified in this [section]. The total investment of the insurer shall include:

(i) any direct investment by the insurer in an asset;

(ii) the insurer's proportionate share of any investment in an asset by any subsidiary of the insurer, which shall be calculated by multiplying the amount of the subsidiary's investment by the percentage of the insurer's ownership of such subsidiary.

(d) with the approval of the commissioner, invest any amount in common stock, preferred stock, debt obligations,

or other securities of one or more subsidiaries, provided that after such investment, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs;

(e) invest any amount in the common stock, preferred stock, debt obligations, or other securities of any subsidiary exclusively engaged in holding title to or holding title to and managing or developing real or personal property if, after considering as a disallowed asset so much of the investment as is represented by subsidiary assets which if held directly by the insurer would be considered as a disallowed asset, the insurer's surplus as regards policyholders will be reasonable in relation to the insurer's outstanding liabilities and adequate to its financial needs and if following such investment all voting securities of such subsidiary would be owned by the insurer.

(2) Investments in common stock, preferred stock, debt obligations, or other securities of subsidiaries made pursuant to subsection (1) hereof ~~shall~~ are not be subject to any of the otherwise applicable restrictions or prohibitions contained in parts 10 and 11 of this chapter applicable to such investments of insurers.

(3) Whether any investment pursuant to subsection (1) meets the applicable requirements thereof is to be

determined immediately after such investment is made, taking into account the then outstanding principal balance on all previous investments in debt obligations and the value of all previous investments in equity securities as of the date they were made.

(4) If an insurer ceases to control a subsidiary, it shall dispose of any investment therein made pursuant to this section within 3 years from the time of the cessation of control or within such further time as the commissioner may prescribe, unless at any time after such investment shall have been made, such investment shall have met the requirements for investment under any other section of parts 10 and 11 of this chapter and the insurer has notified the commissioner thereof."

Section 13. Section 33-3-215, MCA, is amended to read:

"33-3-215. Mutualization of stock insurer. (1) A stock insurer other than a title insurer may become a mutual insurer under ~~such~~ a plan and procedure ~~as may be~~ approved by the commissioner after a hearing thereon.

(2) The commissioner shall not approve any such plan, procedure, or mutualization unless:

(a) it is equitable to stockholders and policyholders;

(b) it is subject to approval by the holders of not less than three-fourths of the insurer's outstanding capital stock having voting rights and by not less than two-thirds

of the insurer's policyholders who vote on such plan in person, by proxy, or by mail pursuant to such notice and procedure as may be approved by the commissioner;

(c) if a life insurer, the right to vote thereon is limited to holders of policies other than term or group policies and whose policies have been in force for more than 1 year;

(d) mutualization will result in retirement of shares of the insurer's capital stock at a price not in excess of the fair market value thereof as determined by competent disinterested appraisers;

(e) the plan provides for the purchase of the shares of any nonconsenting stockholder in the same manner and subject to the same applicable conditions as provided by ~~[15-1905, R.C.M. 1947]~~ Title 35, chapter 1, part 8, as to rights of nonconsenting stockholders, with respect to consolidation or merger of private corporations;

(f) the plan provides for definite conditions to be fulfilled by a designated early date upon which such mutualization will be deemed effective; and

(g) the mutualization leaves the insurer with surplus funds reasonably adequate for the security of its policyholders and to enable it to continue successfully in business in the states in which it is then authorized to transact insurance and for the kinds of insurance included

in its certificates of authority in such states.

(3) This section shall not apply to mutualization under order of court pursuant to rehabilitation or reorganization of an insurer under chapter 2, part 9."

Section 14. Section 33-3-217, MCA, is amended to read:

"33-3-217. Mergers and consolidations of stock insurers. (1) A domestic stock insurer may merge or consolidate with one or more domestic or foreign stock corporations authorized to transact business in this state and by complying with the applicable provisions of the statutes of this state governing the merger or consolidation of stock corporations formed for profit but subject to subsections (2) and (3) below.

(2) No such merger or consolidation ~~shall~~ may be effectuated unless in advance thereof the plan and agreement therefor have been filed with the commissioner and approved in writing by him after a hearing thereon. The commissioner shall give such approval within a reasonable time after such filing unless he finds such plan or agreement:

(a) is contrary to law;

(b) inequitable to the stockholders of any domestic insurer involved; or

(c) would substantially reduce the security of and service to be rendered to policyholders of the domestic insurer in this state or elsewhere.

(3) No director, officer, agent, or employee of any insurer party to such merger or consolidation ~~shall~~ may receive any fee, commission, compensation, or other valuable consideration whatsoever for in any manner aiding, promoting, or assisting therein except as set forth in such plan or agreement.

(4) If the commissioner does not approve any such plan or agreement he shall so notify the insurer in writing specifying his reasons therefor.

(5) If any domestic insurer involved in the proposed merger or consolidation is authorized to transact insurance also in other states, the commissioner may request the insurance commissioner, director of insurance, superintendent of insurance, or other similar public insurance supervisory official of the two other such states in which such insurer has in force the larger amounts of insurance to participate in the hearing provided for under subsection (2) above, with full right to examine all witnesses and evidence and to offer to the commissioner such pertinent information and suggestions as they may deem proper.

(6) Any plan or proposal through which a stock insurer proposes to acquire a controlling stock interest in another stock insurer through an exchange of stock of the first insurer, issued by the insurer for the purpose, for such

controlling stock of the second insurer is deemed to be a plan or proposal of merger of the second insurer into the first insurer for the purposes of this section and is subject to the applicable provisions hereof.

(7) Upon merger or consolidation of a domestic insurer with another insurer under this chapter, the corporate charter of such merged or consolidated domestic insurer shall ~~therby~~ thereby automatically be extinguished and nullified."

Section 15. Section 33-5-201, MCA, is amended to read:

"33-5-201. Organization of reciprocal insurer. (1) Twenty-five or more persons domiciled in this state may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority a declaration setting forth:

(a) the name of the insurer;

(b) the location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(c) the kinds of insurance proposed to be transacted;

(d) the names and addresses of the origi

subscribers;

(e) the designation and appointment of the proposed attorney and a copy of the power of attorney;

(f) the names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(g) the powers of the subscribers' advisory committee and the names and terms of office of the members thereof;

(h) that all moneys paid to the reciprocal ~~[insurer]~~ shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(i) a copy of the subscribers' agreement;

(j) a statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than 6 months at an adequate rate theretofore filed with and approved by the commissioner;

(k) a statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by 33-5-401 is on hand; and

(l) a copy of each policy, endorsement, and application form it then proposes to issue or use.

(3) ~~Such~~ The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds."

Section 16. Section 33-7-514, MCA, is amended to read:

"33-7-514. Standard provisions. (1) After January 1, 1962, no life benefit certificate ~~shall~~ may be delivered or issued for delivery in this state unless a copy of the form has been filed with the commissioner.

(2) The certificate ~~shall~~ must contain in substance the following standard provisions or, in lieu thereof, provisions which are more favorable to the member:

(a) title on the face and filing page of the certificate clearly and correctly describing its form;

(b) a provision stating the amount of rates, premiums, or other required contributions, by whatever name known, which are payable by the insured under the certificate;

(c) a provision that the member is entitled to a grace period of not less than a full month (or 30 days at the option of the society) in which the payment of any premium after the first may be made. During such grace period the certificate ~~shall~~ must continue in full force, but in case the certificate becomes a claim during the grace period before the overdue payment is made, the amount of such overdue payment or payments may be deducted in any settlement under the certificate.

(d) a provision that the member ~~shall be~~ is entitled to have the certificate reinstated at any time within 3 years from the due date of the premium in default, unless the certificate has been completely terminated through the application of a nonforfeiture benefit, cash surrender value, or certificate loan, upon the production of evidence of insurability satisfactory to the society and the payment of all overdue premiums and any other indebtedness to the society upon the certificate, together with interest on such premiums and such indebtedness, if any, at a rate not exceeding 6% per annum compounded annually;

(e) except in the case of pure endowment, annuity or reversionary annuity contracts, reducing term insurance contracts, or contracts of term insurance of uniform amount of 15 years or less expiring before age 66, a provision that, in the event of default in payment of any premium after 3 full years' premiums have been paid or after premiums for a lesser period have been paid if the contract so provides, the society will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on the plan stipulated in the certificate, effective as of such due date, of such value as specified in this chapter. The certificate may provide, if the society's laws so specify or if the member ~~shall~~ so ~~elect~~ elects prior to the expiration

of the grace period of any overdue premium, that default ~~shall~~ may not occur so long as premiums can be paid under the provisions of an arrangement for automatic premium loan as may be set forth in the certificate.

(f) a provision that one paid-up nonforfeiture benefit as specified in the certificate ~~shall~~ must become effective automatically unless the member elects another available paid-up nonforfeiture benefit, not later than 60 days after the due date of the premium in default;

(g) a statement of the mortality table and rate of interest used in determining all paid-up nonforfeiture benefits and cash surrender options available under the certificate and a brief general statement of the method used in calculating such benefits;

(h) a table showing in figures the value of every paid-up nonforfeiture benefit and cash surrender option available under the certificate for each certificate anniversary either during the first 20 certificate years or during the term of the certificate, whichever is shorter;

(i) a provision that the certificate ~~shall be~~ is incontestable after it has been in force during the lifetime of the member for a period of 2 years from its date of issue except for nonpayment of premiums, violation of the provisions of the certificate relating to military, aviation, or naval service, and violation of the provisions

relating to suspension or expulsion as substantially set forth in the certificate. At the option of the society, supplemental provisions relating to benefits in the event of temporary or permanent disability or hospitalization and provisions which grant additional insurance specifically against death by accident or accidental means may also be excepted. The certificate ~~shall be~~ is incontestable on the grounds of suicide after it has been in force during the lifetime of the member for a period of 2 years from date of issue. The certificate may provide, as to statements made to procure reinstatement, that the society ~~shall have~~ has the right to contest a reinstated certificate within a period of 2 years from date of reinstatement with the same exceptions as herein provided.

(j) a provision that in case the age of the member or of any other person is considered in determining the premium and it is found at any time before final settlement under the certificate that the age has been misstated, and the discrepancy and premium involved have not been adjusted, the amount payable shall be such as the premium would have purchased at the correct age; but if the correct age was not an insurable age under the society's charter or laws, only the premiums paid to the society, less any payments previously made to the member, shall be returned or, at the option of the society, the amount payable under the

certificate shall be such as the premium would have purchased at the correct age according to the society's promulgated rates and any extension thereof based on actuarial principles;

(k) a provision or provisions which recite fully or which set forth the substance of all sections of the charter, constitution, laws, or rules of the society in force at the time of issuance of the certificate, the violation of which will result in the termination of or in the reduction of the benefit or benefits payable under the certificate; and

(l) if the constitution or laws of the society provide for expulsion or suspension of a member, a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentations in such member's application for membership, shall have the privilege of maintaining his insurance in force by continuing payment of the required premium.

(3) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance or because the certificate is an annuity certificate may, to the extent inapplicable, be omitted from the certificate."

Section 17. Section 33-10-217, MCA, is amended to read:

"33-10-217. Prevention of impairments. To aid in the detection and prevention of insurer impairments the board of directors is given the following powers and duties:

(1) The board ~~of directors~~ shall, upon majority vote, notify the commissioner of any information indicating any member insurer may be unable or potentially unable to fulfill its contractual obligations.

(2) The board ~~of directors~~ may, upon majority vote, request that the commissioner order an examination of any member insurer which the board in good faith believes may be unable or potentially unable to fulfill its contractual obligations.

(3) The board ~~of directors~~ may, upon majority vote, make reports and recommendations to the commissioner upon any matter germane to the solvency, liquidation, rehabilitation, or conservation of any member insurer. Such reports and recommendations shall not be considered public documents.

(4) The board ~~of directors~~ may, upon majority vote, make recommendations to the commissioner for the detection and prevention of insurer impairments.

(5) The board ~~of directors~~ shall, at the conclusion of any insurer impairment in which the association carried out its duties under this part or exercised any of its powers under this part, prepare a report on the history and causes

of such impairment, based on the information available to the association, and submit such report to the commissioner."

Section 18. Section 33-10-229, MCA, is amended to read:

"33-10-229. Recovery of dividends. (1) If an order for liquidation or rehabilitation of an insurer domiciled in this state has been entered, the receiver appointed under such order ~~shall have~~ has a right to recover on behalf of the insurer, from any affiliate that controlled it, the amount of distributions, other than stock dividends paid by the insurer on its capital stock, made at any time during the 5 years preceding the petition for liquidation or rehabilitation subject to the limitations of subsections (2) through (4).

(2) No such dividend ~~shall be~~ is recoverable if the insurer shows that when paid the distribution was lawful and reasonable and that the insurer did not know and could not reasonably have known that the distribution might adversely affect the ability of the insurer to fulfill its contractual obligations.

(3) Any person who ~~as~~ was an affiliate that controlled the insurer at the time the distributions were paid ~~shall be~~ is liable up to the amount of distributions he received. Any person who was an affiliate that controlled the insurer

at the time the distributions were declared ~~shall--be~~ is liable up to the amount of distributions he would have received if they had been paid immediately. If two persons are liable with respect to the same distributions, they ~~shall be~~ are jointly and severally liable.

(4) The maximum amount recoverable under this section ~~shall--be~~ is the amount needed in excess of all other available assets of the impaired insurer to pay the contractual obligations of the impaired insurer.

(5) If any person liable under subsection (3) is insolvent, all its affiliates that controlled it at the time the dividend was paid ~~shall be~~ are jointly and severally liable for any resulting deficiency in the amount recovered from the insolvent affiliate."

Section 19. Section 33-17-203, MCA, is amended to read:

"33-17-203. General qualification for license as life or disability insurance agent. For the protection of the people of this state the commissioner ~~shall~~ may not issue, continue, or permit to exist any agent license as to life or disability insurance except in compliance with this chapter. ~~or as to any~~ In addition, the individual ~~not--qualified~~ therefor must qualify as follows:

(1) ~~must~~ be 18 years of age or more;

(2) ~~must~~ be a resident in and of this state or of

another state if by reciprocal arrangements made by the commissioner with such other state similar privileges therein are granted to residents of this state;

(3) ~~must~~ have been appointed as such an agent by an authorized insurer, subject to issuance of the license;

(4) ~~must~~ be competent, trustworthy, and of good reputation;

(5) ~~must~~ have had experience or training or be otherwise adequately qualified in the kind or kinds of insurance as to which he is to be licensed, and be reasonably familiar with the provisions of this code governing his operations as such an agent and with the provisions of the policies and contracts he proposes to offer under the license;

(6) ~~must~~ pass any written examination for the license required under this chapter;

(7) ~~must~~ not use or intend to use the license principally for the writing of insurance on the lives or interests of himself or his relatives to the second degree;

(8) ~~must~~ not be a funeral director, undertaker, or mortician or an officer, employee, or representative thereof."

Section 20. Section 33-17-211, MCA, is amended to read:

"33-17-211. Application for license. (1) Application

for an agent or solicitor license ~~shall~~ **must** be made to the commissioner by the applicant and be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The commissioner shall designate and prepare forms for application for license which ~~shall~~ **must** require full answers to such questions as may reasonably be necessary to determine the applicant's identity, residence, personal history, business record, experience and training in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) If for an agent's license, the application ~~shall~~ **must** state the kinds of insurance proposed to be transacted and be accompanied by written appointment of the applicant as agent by an authorized insurer, subject to issuance of the license.

(4) If for a solicitor's license, the application ~~shall~~ **must** be accompanied by written appointment of applicant as solicitor by a licensed agent, subject to issuance of the license.

(5) If the applicant for an agent license is a firm or corporation, the application shall show, in addition, the names of all members, officers, and directors and shall

designate each individual who is to exercise the powers to be conferred by the license upon the firm or corporation. Each such individual so designated shall furnish information as to himself, as part of the application, as though for an individual license.

(6) If the applicant for an agent license is an agents' association pursuant to 33-17-205, the application ~~shall~~ **must** show the names and residence addresses of the association's officers and trustees.

(7) If for license as either agent or solicitor, the application ~~shall~~ **must** also show whether applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any such license was ever refused, suspended, or revoked; whether any insurer, general agent, or agent, in the case of a solicitor application, claims applicant to be indebted to it and, if so, the details thereof and the defenses, if any, of the applicant thereto; whether applicant ever had an agency contract canceled and the facts thereof; and if applicant is married, like information with respect to the applicant's spouse.

(8) The commissioner shall require as part of the application for license the certificate of an officer or representative of the insurer proposed to be represented, in the case of applicants for license as agent, or of the proposed employing agent, in the case of applicants for

license as solicitor, as to whether the applicant is known to such officer or representative, whether the insurer or agent has investigated the character and business record of the applicant and the uses to be made of the license, if granted, and his opinion, based on such investigation, as to applicant's trustworthiness and competence and whether the applicant will use the license principally for the purpose of insuring the applicant's own risks or interests and those of the applicant's relatives or employer.

(9) All such applications ~~shall~~ must be accompanied by the applicable license fee, appointment of agent fee where applicable, and examination fee where required under 33-17-212, all in the respective amounts stated in 33-2-708."

Section 21. Section 33-17-213, MCA, is amended to read:

"33-17-213. Conduct of examinations. (1) The commissioner shall make any examination required under 33-17-212 available to applicants with reasonable frequency and at a place in this state reasonably accessible to ~~such~~ the applicants. The commissioner shall make any such examination available at his offices at Helena, Montana, at times within his discretion but at least once a month.

(2) All the kinds of insurance or ~~class~~ classes thereof, as referred to in 33-17-212(3), which the applicant

proposes to transact under the license applied for shall be included in the same examination.

(3) The commissioner shall give, conduct, and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(4) The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same kind or kinds of insurance."

Section 22. Section 33-17-1004, MCA, is amended to read:

"33-17-1004. Acting as insurance agent, solicitor, or adjuster without license -- penalty. Any person, firm, association, or corporation who or which, in this state, acts as an insurance agent, solicitor, or adjuster without having authority to do so by virtue of a license issued and in force pursuant to the provisions of this chapter ~~shall upon--conviction--be~~ is guilty of a misdemeanor and, upon conviction, shall be fined $500 or imprisoned in the county jail for 90 days or both ~~such-fine-and-imprisonment.~~"

Section 23. Section 33-18-301, MCA, is amended to read:

"33-18-301. Prohibited relations with mortuaries. (1) No life insurer ~~shall~~ may own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking

establishment or permit its officers, employees, or representatives to own, operate, maintain, or be employed in any such business.

(2) No life insurer ~~shall~~ may contract or agree with any funeral director, mortuary, or undertaker to the effect that such funeral director, undertaker, or mortuary shall conduct the funeral of any person insured by such insurer.

(3) Each violation of this section ~~shall constitute~~ constitutes a misdemeanor punishable by a fine of not more than $1,000 or by imprisonment ~~at hard labor~~ for not more than 6 months or by both such fine and imprisonment ~~in the discretion of the court.~~"

Section 24. Section 33-20-213, MCA, is amended to read:

"33-20-213. Operative date. After July 1, 1945, any insurer could have filed with the state auditor a written notice of its election to comply with the provisions of this part, except 33-20-206 and 33-20-207, after a specified date before January 1, 1948, with respect to the policies specified in the notice. After the filing of such notice, then upon such specified date (which shall be the operative date for such insurer with respect to such policies), this part, except 33-20-206 and 33-20-207, shall have become operative with respect to the policies specified in such notice thereafter issued by such insurer. As to all of its

policies and contracts with respect to which an insurer makes no such election, the operative date of this part, except 33-20-206 and 33-20-207, with respect to such policies and contracts for such insurer is January 1, 1948."

Section 25. Section 33-20-1111, MCA, is amended to read:

"33-20-1111. Dependents of employee and labor union groups -- coverage. Any group life policy issued under 33-20-1101, 33-20-1102, or 33-20-1103, may be extended to insure the employees or members against loss due to the death of their spouses and minor children, or any class or classes thereof, subject to the following requirements:

(1) The premium for the insurance shall be paid by the policyholder, either from the employer's or union's funds or funds contributed by the employer or union or from funds contributed by the insured employees or members, or from both. If any part of the premium is to be derived from funds contributed by the insured employees or members, the insurance with respect to spouses and children may be placed in force only if at least 75% of the then eligible employees or members, excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, elect to make the required contribution. If no part of the premium is to be derived from funds contributed by the employees or members, all eligible employees or members,

excluding any as to whose family members evidence of insurability is not satisfactory to the insurer, must be insured with respect to their spouses and children.

(2) The amounts of insurance must be based upon some plan precluding individual selection either by the employees or members or by the policyholder, employer, or union.

(3) Upon termination of the insurance with respect to the members of the family of any employee or member by reason of the employee's or member's termination of employment, termination of membership in the class or classes eligible for coverage under the policy, or death, the spouse ~~shall be~~ is entitled to have issued by the insurer, without evidence of insurability, an individual policy of life insurance, without disability or other supplementary benefits, providing application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, subject to the requirements of subsections (1), (2), and (3) of ~~[33-20-1208]~~ 33-20-1209. If the group policy terminates or is amended so as to terminate the insurance of any class of employees or members and the employee or member is entitled to have issued an individual policy under 33-20-1210, the spouse ~~shall~~ is also be entitled to have issued by the insurer an individual policy, subject to the conditions and limitations provided above. If the spouse

dies within the period during which he would have been entitled to have an individual policy issued in accordance with this provision, the amount of life insurance which he would have been entitled to have issued under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(4) Notwithstanding 33-20-1208, only one certificate need be issued for delivery to an insured person if a statement concerning any dependent's coverage is included in such certificate."

Section 26. Section 33-22-202, MCA, is amended to read:

"33-22-202. Required provisions -- captions -- omissions -- substitutions -- order. (1) Except as provided in subsection (2) below, each such policy delivered or issued for delivery to any person in this state ~~shall~~ must contain the provisions specified in 33-22-204 through 33-22-215, in the words in which the same appear, except that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Each such provision ~~shall~~ must

be preceded individually by the applicable caption shown or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

(2) If any such provision is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy, the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision and shall modify any inconsistent provision or part of a provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

(3) The provisions which are the subject of ~~[40-4007 to 40-4030]~~ 33-22-204 through 33-22-232 or any corresponding provisions which are used in lieu thereof in accordance with such sections shall be printed in the consecutive order of the provisions in such sections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy with other provisions to which it may be logically related, provided that the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued."

Section 27. Section 33-17-216, MCA, is amended to read:

"33-17-216. Temporary agent licenses -- fee. (1) The commissioner may issue a temporary license as agent to or with respect to an individual qualified therefor only as to age, residence, and trustworthiness and without requiring such individual to take an examination, in the following cases:

(a) to the surviving spouse or next of kin or to the administrator or executor, or the employee of such administrator or executor, of a licensed agent ~~becoming deceased~~ upon such agent's death;

(b) to the spouse, next of kin, employee, or legal guardian of a licensed agent disabled by ~~sickness,~~ injury, or ~~insanity~~ physical or mental illness;

(c) to an employee of a firm, or officer or employee of a corporation, licensed as agent, upon the death or disability of an individual designated in the license to exercise the powers thereof;

(d) to the designee of a licensed agent entering upon active service in the armed forces of the United States of America;

(e) upon the request of the insurer, to an applicant for a license as a life insurance agent, pending the taking of any examination required of the applicant by the commissioner under 33-17-212, if the applicant is duly enrolled in and is actively pursuing an adequate course of

instruction, as provided by or through the insurer, in preparation for such examination. Such license shall be for a period of not over 90 days or until the applicant has had a reasonable opportunity to take such examination and be informed by the commissioner as to the results thereof, whichever is the shorter period, but subject to extension by the commissioner as provided in subsection (3) below.

(2) The temporary license shall be issued upon application filed with the commissioner in such form and containing such information as the commissioner may reasonably require and upon payment of the applicable fee as stated in 33-2-708.

(3) The temporary license shall be for a period of not over 90 days, subject to extension by the commissioner in his discretion for an additional period of not more than 90 days, except that such a license issued pursuant to subsection (1)(a) above may be continued without payment of an additional fee until the executor or administrator disposes of the insurance business but not to exceed a period of 15 months. ~~Temporary~~ A temporary license issued to the next of kin under such subsection (1)(a) ~~shall~~ may not be extended for an additional term ~~or--terms~~ after the appointment and qualification of ~~such~~ an administrator or executor.

(4) The fee paid for the temporary license may be

applied upon the fee required for ~~any~~ a permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance." ~~}~~

Section 28. Section 33-20-121, MCA, is amended to read:

"33-20-121. Prohibited provisions -- limitations on liability. (1) No policy of life insurance ~~shall~~ may be delivered or issued for delivery in this state if it contains any of the following provisions:

(a) a provision for a period shorter than that provided by statute within which an action at law or in equity may be commenced on ~~such a~~ the policy;

(b) a provision which excludes or restricts liability for death caused in a certain specified manner or occurring while the insured has a specified status, except that a policy may contain provisions excluding or restricting coverage as specified therein in the event of death under any one or more of the following circumstances:

(i) death as a result, directly or indirectly, of war, declared or undeclared, or of action by military forces or of any act or hazard of such war or action or of service in the military, naval, or air forces or in civilian forces auxiliary thereto or from any cause while a member of such military, naval, or air forces of any country at war, declared or undeclared, or of any country engaged in such

military action;

(ii) death as a result of aviation or any air travel or flight;

(iii) death as a result of a specified hazardous occupation or occupations;

(iv) death while the insured is a resident outside the continental United States and Canada; or

(v) death within 2 years from the date of issue of the policy as a result of suicide, while ~~sane--or--insane~~ seriously mentally ill or otherwise.

(2) A policy which contains any exclusion or restriction pursuant to subsection (1) of this section shall also provide that in the event of death under the circumstances to which any such exclusion or restriction is applicable, the insurer will pay an amount not less than a reserve determined according to the commissioner's reserve valuation method upon the basis of the mortality table and interest rate specified in the policy for the calculation of nonforfeiture benefits (or if the policy provides for no such benefits, computed according to a mortality table and interest rate determined by the insurer and specified in the policy) with adjustment for indebtedness or dividend credit.

(3) This section ~~shall~~ does not apply to industrial life insurance, group life insurance, disability insurance, reinsurance, or annuities, or to any provision in a life

insurance policy relating to disability benefits or to additional benefits in the event of death by accident or accidental means.

(4) Nothing contained in this section ~~shall--prohibit~~ prohibits any provision which in the opinion of the commissioner is more favorable to the policyholder than a provision permitted by this section."

Section 29. Repealer. Section 40-1723, R.C.M. 1947, is repealed.

-End-